C.R.No.376/01

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL REVISION PETITION NO.376/2001

Smt. Radha Devi Vs. Mansoor Ahmed

DATE OF ORDER :: 27/11/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Rajendra Prasad, for petitioner
Mr. A.K. Bhandari, for respondent

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Instant revision petition has been filed by the petitioner-defendant questioning the order of the Rajasthan Wakf Tribunal dated 30th November, 2000.

One of the contentions, which has been advanced by the counsel for petitioner, is that cross sale deeds were filed before the Wakf Tribunal which gives a different description of the disputed property and that could have been resolved only by permitting the parties to cross-examine the oral testimony of the witnesses furnish affidavits which has not been considered by the Tribunal despite application filed by the petitioner and the same was rejected without assigning any reason on the premise that no rules have been framed so far and there is no such practice permitting the parties to cross-examine the witnesses.

It is true that granting permission for cross-examination cannot be made a rule in every matter for resolving the dispute, but the facts which have come on record in the present matter where there is cross sale deeds giving different description of the

disputed property in question, certainly affidavits filed by either of the parties could have been resolved by permitting them to cross-examine the witnesses and order for refusal passed by the learned Wakf Tribunal in the instant matter, in my opinion, was not justified and since the parties were not permitted to cross-examine what has been finally observed cannot be said to be legally sustainable under the order impugned dated 30th November, 2000.

Consequently, without expressing any opinion on merits of the matter, the present order dated 30th November, 2000 stands set aside and both the parties are permitted to cross-examine the witnesses and may also file additional evidence, if so required in the matter in support of their contention and after taking into consideration the material afresh and so also what has been observed above, the Tribunal may decide the matter afresh in accordance with law after affording opportunity to the parties of the dispute.

With the above observations, the present revision petition stands disposed of. Both the parties are directed to appear before the Wakf Tribunal on 18th December, 2006. Record of the case be sent back immediately.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.